



Federal Communications Commission
Washington, D.C. 20554

August 23, 2010

DA 10-1590

In Reply Refer to:

1800B3-ATS

NAL/Acct No.: MB-200741410260

FRN: 0006733547

Released: August 23, 2010

Arthur V. Belendiuk, Esq.
Smithwick & Belendiuk, P.C.
5028 Wisconsin Avenue, N.W., Suite 301
Washington, D.C. 20016

Re: Faith Bible College, Inc.
Station WTGF(FM), Milton, Florida
Facility ID No. 20474
File No. BRED-20040913ABU

Dear Mr. Belendiuk:

We have before us an April 13, 2007, Response to Notice of Apparent Liability for Forfeiture ("Response") filed on behalf of Faith Bible College, Inc. ("Licensee"), licensee of Station WTGF(FM), Milton, Florida ("Station"). The Response requests the cancellation or substantial reduction of the March 19, 2007, Notice of Apparent Liability for Forfeiture¹ in the amount of seven thousand dollars (\$7,000) issued to Licensee for willfully violating Section 73.3539 of the Commission's Rules ("Rules") and for willfully and repeatedly violating Section 301 of the Communications Act of 1934, as amended ("Act"), for its failure to timely file a license renewal application and for unauthorized operation of the Station after its license had expired.² By this action, we cancel the *NAL* and admonish Licensee for filing the renewal application in paper format without demonstrating good cause.

Background. As noted in the *NAL*, Licensee's renewal application for the Station's current license term was due on October 1, 2003, four months prior to the February 1, 2004, license expiration date. According to Commission records, no such application was filed, and the Station's license expired on February 1, 2004. On August 31, 2004, the staff wrote Licensee indicating that the Station's license had expired and that (1) all authority to operate the Station was terminated; and (2) the Station's call letters were deleted from the Commission's data base.³ On September 10, 2004, Licensee filed a request for special temporary authorization ("STA")⁴ to continue operations and on September 13, 2004, tendered the subject license renewal application. In the STA Request, Licensee stated that it was unaware that a renewal

¹ *Faith Bible College, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Red 5322 (MB 2007) ("*NAL*"). The Commission granted the above-referenced license renewal application on March 19, 2007.

² 47 C.F.R. § 73.3539; 47 U.S.C. § 301.

³ *Letter to Faith Bible College, Inc., from Chief, Audio Division, Media Bureau*, Ref. 1800B3-DW (Aug. 31, 2004).

⁴ File No. BLSTA-20040910ABD ("STA Request").

application had not been filed.⁵ The staff granted the STA request on September 15, 2004, and it was to expire on March 15, 2005.⁶ On March 19, 2007, the staff advised Licensee of its apparent liability for a forfeiture of \$7,000 for a failure to file a timely renewal application for the Station and for unauthorized operation of the Station after its license expired.⁷ Licensee filed its Response on April 13, 2007.

Licensee asserts that it should be excused from liability because: 1) it timely filed a renewal application for the Station, although it did not do so electronically;⁸ 2) its failure to properly file the renewal application was not willful;⁹ and 3) it is a noncommercial educational broadcaster.¹⁰

Discussion. The forfeiture amount proposed in this case was assessed in accordance with Section 503(b) of the Act,¹¹ Section 1.80 of the Rules,¹² and the Commission's *Forfeiture Policy Statement*.¹³ In assessing forfeitures, Section 503(b)(2)(E) of the Act requires that we take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.¹⁴

Licensee states that a paper copy of the renewal application was submitted in September 2003.¹⁵ The staff has determined that a paper application dated September 19, 2003, was submitted by Licensee. However, Licensee was required to file its renewal application electronically.¹⁶ Licensees are responsible for knowing and observing the rules affecting their activities, including the timely submission of required

⁵ *Id.*

⁶ *Letter to Arthur V. Belendiuk, Esq.*, Reference 1800B3-PAD (Sep. 15, 2004). Licensee filed a request for extension of the STA on February 14, 2005. *See* File No. 20040910ABF. The staff dismissed the STA extension request as moot when it granted the Station's license renewal application.

⁷ *Faith Bible College, Inc.*, 22 FCC Rcd at 5322.

⁸ Response at 3.

⁹ *Id.* at 3-4.

¹⁰ *Id.* at 5.

¹¹ 47 U.S.C. § 503(b).

¹² 47 C.F.R. § 1.80.

¹³ *Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

¹⁴ 47 U.S.C. § 503(b)(2)(E).

¹⁵ Response at 2.

¹⁶ *See New FCC Form 303-S Available for Use*, Public Notice, 18 FCC Rcd 5088 (MB Mar. 21, 2003); *see also* Instructions for FCC 303-S ("Application for Renewal of Broadcast Station License").

forms.¹⁷ Untimely or improperly filed renewal applications disrupt the orderly processing of renewal applications in accordance with the staggered filing set forth in Section 73.1020 of the Rules.¹⁸ Because Licensee did timely tender a renewal application for the Station, albeit in paper form, we will cancel the NAL. However, because it improperly filed the renewal application and did not provide a showing of good cause, we will admonish it.¹⁹ In light of this finding, we need not address Licensee's remaining arguments.

Conclusion/Actions. In view of the foregoing, the Notice of Apparent Liability (MB-200741410260) for violations of Section 73.3539 of the Rules and Section 301 of the Act is HEREBY CANCELLED. Faith Bible College, Inc., is instead hereby ADMONISHED for filing the license renewal application for Station WTGF(FM), Milton, Florida, in paper format without demonstrating good cause.

Sincerely,

Peter H. Doyle, Chief
Audio Division
Media Bureau

CC: Faith Bible College, Inc.

¹⁷ See, e.g., *Rego, Inc.*, Forfeiture Order, 16 FCC Rcd 16795, 16797 (EB 2001).

¹⁸ 47 C.F.R. § 73.1020.

¹⁹ See *K.S.L.O. Broadcasting Co., Inc.*, Letter, 24 FCC Rcd 4785 (MB 2009) (cancelling NAL and admonishing licensee for failure to file its renewal application in electronic form); *Peter Gutmann, Esq.*, Letter, 23 FCC Rcd 14666 (MB 2008) (same).